

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL MEMORANDUM**

**SB 1527 - HB 1440**

April 5, 2021

**SUMMARY OF ORIGINAL BILL:** Extends, from 45 to 60, the number of days within which the court clerks are required to forward a copy of the judgment and date of birth of all persons who are convicted of a violation of certain felony drug offenses to the Tennessee Bureau of Investigation (TBI).

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (004756):** Deletes all language after the enacting clause. Increases the minimum amount of cocaine, from more than 0.5 grams to more than 3.5 grams, necessary to qualify as a Class B felony offense for manufacturing, delivery, possession, or selling. Increases the maximum amount of cocaine, from less than 0.5 grams to less than 3.5 grams, necessary to qualify as a Class C felony offense for manufacturing, delivery, possession, or selling. Lowers, from 26 grams to 15 grams, the required amount for violation of the Class B felony offense involving amphetamine or methamphetamine. Lowers, from 15 grams to 10 grams, the required amount for violation of the Class B felony offense involving any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue. Lowers, from 150 grams to 100 grams, the required amount for violation of the Class A felony offense for any such substances.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

The fiscal memorandum has been updated to identify the time and amount any estimated decrease in incarceration expenditures will be realized to ensure the constitutional requirement for first year funding is met during the budget process.

**(CORRECTED)**

**Increase State Expenditures - \$1,438,000 Incarceration\***

**Decrease State Expenditures - \$8,887,600 Incarceration**

**Other Fiscal Impact - The estimated first year savings in FY22-23 will be \$397,707 and future savings of \$5,696,573 in FY23-24. Savings will continue to grow annually as new offenders' sentences are reduced.**

Assumptions for the bill as amended:

- Based upon information provided by the Department of Correction (DOC), there has been an average of 386.67 admissions in each of the last three years for the Class B felony offense under Tenn. Code Ann. § 39-17-417(c)(1) for manufacturing, delivery, possession, or selling cocaine in the amount of 0.5 grams or more, with an average time served of 3.37 years, or 1,231 days ( $3.37 \times 365.25$ ).
- It can be reasonably assumed that half, or 193.84 ( $387.67 \times 50\%$ ), of such admissions will be classified as a Class C felony under this legislation.
- There has been an average of 158.67 admissions in each of the last three years for the Class C felony offense under Tenn. Code Ann. § 39-17-417(c)(2)(A) for manufacturing, delivery, possession, or selling cocaine in the amount of 0.5 grams or less, with an average time served of 1.93 years, or 705 days ( $1.93 \times 365.25$ ).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 16 ( $193.84 \times 8.3\%$ ) additional admissions for a total of 210 ( $193.84 + 16$ ).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The decrease in state incarceration expenditures will be \$8,887,612 [ $(1,231 - 705) \times \$80.46 \times 210$ ].
- There has been an average of 100.6 admissions for the Class B felony offense under Tenn. Code Ann. § 39-17-417(i)(5) and Tenn. Code Ann. § 39-17-417(i)(10) involving amphetamine or methamphetamine, with an average time served of 3.13 years, or 1,143 days ( $3.13 \times 365.25$ ).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 8 ( $100.6 \times 8.3\%$ ) additional admissions for a total of 109 ( $100.6 + 8$ ).
- It is assumed that admissions will increase by 10 percent.
- The increase in state incarceration expenditures will be \$1,002,427 [ $(1,143 \times \$80.46) \times (109 \times 10\%)$ ].
- There has been an average of 17.5 admissions in each of the last ten years the Class B felony offense under Tenn. Code Ann. § 39-17-417(i)(12) involving of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue of at least 15 grams, with an average time served of 7.8 years, or 2,849 days ( $7.8 \times 365.25$ ).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year

period, population growth will account for 1 (17.5 x 8.3%) additional admissions for a total of 19 (17.5 + 1).

- It is assumed that admissions will increase by 10 percent.
- The increase in state incarceration expenditures will be \$435,538 [(2,849 x \$80.46) x (19 x 10%)].
- There have been zero admissions in each of the last ten years the Class A felony offense Tenn. Code Ann. § 39-17-417(j)(12) involving of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue of at least 150 grams.
- The increase in incarceration expenditures will be \$1,437,965 – (\$1,002,427 + \$435,538).
- The decrease in incarceration expenditures will be \$8,887,612.
- It's reasonable to assume any releases resulting from the proposed legislation will not occur until FY22-23. The estimated first year savings in FY22-23 will be \$397,707 and future savings of \$5,696,573 in FY22-23. Decreased incarceration expenditures will continue to grow annually as new offenders' sentences are reduced.
- This legislation will not sufficiently lower arrests and convictions to necessitate a reduction of resources or personnel to state and local government courts, law enforcement, and corrections.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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